

### **Remarks**

Claims 2-7, 9, 10, 28, 29, 32, 35, 54, 58, and 63-73 are pending in the application. Page 1 of the Office Action, entitled "Office Action Summary," indicates that all of claims 2-7, 9, 10, 28, 29, 32, 35, 54, 58, and 63-73 are rejected (see line 6 under "Disposition of Claims"). Applicant notes, however, that only claims 2-7, 9, 10, 28, 29, 32, 35, 54, 58, and 63-72 were included in the rejections set forth on pages 2-8 of the Office Action. Applicant, therefore, respectfully submits that claims 2-7, 9, 10, 28, 29, 32, 35, 54, 58, and 63-72 are rejected in the present Office Action, but that claim 73 is not currently rejected.

Claims 2-7, 9, 10, 28, 29, 32, 35, 54, 58, and 63-72 have been canceled by the present Amendment. Claim 73 has been amended to incorporate the language from claim 63 into that claim, thereby making claim 73 an independent claim.

No new matter has been added by the present Amendment. Applicant specifically reserves the right to pursue the subject matter of the canceled or amended claims in a related application. The present Amendment is introduced for the sole purpose of furthering prosecution. Applicant respectfully requests reexamination and reconsideration of the case in light of the present Amendment and the following Remarks. Each of the rejections levied in the Office Action is addressed individually below.

### **Interview**

Applicant thanks the Examiner for a telephone interview that took place on November 25, 2009, during which the present rejections were discussed. As described above, the "Office Action Summary" indicates that all of the pending claims are rejected, but claim 73 was not actually included in any of the rejections set forth on pages 2-8 of the Office Action. Applicant, therefore, telephoned the Examiner to clarify whether the Examiner intended to (1) allow claim 73 if it were rewritten in independent form, or (2) include claim 73 in one or more of the rejections. The Examiner graciously agreed to examine the file, and later that same day, he informed Applicant that he thought claim 73 should have been included in the rejection. However, he acknowledged that claim 73 was not in fact included in the rejection in the Office Action. The Examiner therefore requested that Applicant submit a response to the Office Action pointing out that claim 73 was not actually rejected. He said that he would then withdraw the finality of the outstanding Office Action and issue a new, non-final Office Action which

addresses claim 73. The Examiner indicated that a Request for Continued Examination would not be required, and also invited Applicant to participate in an interview to discuss the claims and rejections in order to expedite the case toward allowance.

Applicant, therefore, submits the present Response and respectfully submits that claim 73 was not actually rejected in the present Office Action. Applicant has canceled all claims except for claim 73 and has rewritten that claim in independent form. Applicant respectfully requests that the Examiner either allow the present case or issue a new, non-final Office Action relating to the patentability of claim 73.

Rejection under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite

Claim 64 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner states that there is insufficient antecedent basis for recitation of “the surface” in that claim. While not agreeing with the Examiner, and solely in order to further prosecution, Applicant has canceled claim 64. Applicant, therefore, respectfully submits that the rejection is rendered moot by the present Amendment.

Rejection under 35 U.S.C. § 103(a) as allegedly being obvious

Claims 2-7, 9, 10, 28, 29, 32, 35, 54, and 63, and 68-72 stand rejected under 35 U.S.C. § 103(a) on the ground that they are unpatentable over Blau *et al.* (U.S. Patent Publication Number 2002/0048778) in view of Williams *et al.* (1999, *Mol. Microbiol.*, 33:1093-1102).

Claim 58 stands rejected under 35 U.S.C. § 103(a) on the ground that it is unpatentable over Blau *et al.* in view of Williams *et al.* and further in view of Kelso (U.S. Patent Publication Number 2003/0129296).

Applicant respectfully submits that claim 73 was not included in either of these rejections under § 103. Thus, Applicant has canceled all claims except for claim 73 and has rewritten claim 73 in independent form. Applicant, therefore, respectfully submits that the § 103 rejections are rendered moot by the present Amendment.

Conclusion

For all of the reasons set forth above, each of the rejections in this case should be removed and the application should proceed to allowance. A Notice to that effect is respectfully requested.

If, at any time, it appears that a phone discussion would be helpful, the undersigned would greatly appreciate the opportunity to discuss such issues at the Examiner's convenience. The undersigned can be contacted at (617) 248-4903.

Respectfully submitted,

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